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UNITED STATES BANKRUPTCY COURT
DISTRICT OF NEW JERSEY

In re:

G-I HOLDINGS INC., et al.,

Debtors.

In Proceedings for Reorganization under Chapter 11

Case Nos. 01-30135 (RG) and 01-38790 (RG)
(Jointly Administered)

Hon. Rosemary Gambardella, U.S.B.J.

Hearing Date: October 31, 2006, at 11:00 a.m.

Oral Argument: Waived, Unless Objection

**MOTION OF G-I HOLDINGS INC. FOR AN ORDER PURSUANT TO 11 U.S.C.
§ 107(b) AND FED. R. BANKR. P. 9018 AUTHORIZING FILING OF
DOCUMENTS UNDER SEAL - HARTFORD SETTLEMENT**

TO: THE HONORABLE ROSEMARY GAMBARDELLA
UNITED STATES BANKRUPTCY JUDGE

CREDITORS REQUESTING NOTICE AND OTHER PARTIES-IN-INTEREST

As and for its motion, pursuant to 11 U.S.C. § 107(b) and Fed. R. Bankr.

P. 9018 (the "Motion"), for authorization to file documents under seal, G-I Holdings

Inc., a chapter 11 debtor in possession herein (“G-I” or the “Debtor”), respectfully represents:

SUMMARY OF MOTION

1. By this motion, G-I seeks authority to file, under seal, documents in support of a motion to approve, *inter alia*, a settlement agreement between G-I, International Specialty Products Inc. (“ISP”) and Building Materials Corporation of America d/b/a GAF Materials Corporation (“BMCA” and, collectively with G-I and ISP, “Policyholders”) and Hartford Accident and Indemnity Company, First State Insurance Company and Twin City Fire Insurance Company (collectively, the “Settling Insurers”) which the Debtor has filed simultaneous with this Motion (collectively, the “Hartford 9019 Motion”).¹

2. In connection with the Hartford 9019 Motion, G-I proposes to file the following documents under seal: (i) an allocation analysis involving Policyholders’ triggered insurance policies, including those policies subscribed to by the Settling Insurers (the “Allocation Analysis”), (ii) the specific amount of Policyholders’ claims established in the settlements (the “Settlement Amount”) and (iii) the agreements embodying the settlements (the “Settlement Agreements”).

3. It is necessary to file the Allocation Analysis, Settlement Amount and Settlement Agreements under seal because Policyholders continue to litigate and to attempt to settle their claims with remaining unsettled insurance carriers for defense

¹ The Debtor previously filed two motions to approve separate settlements between Policyholders and two different sets of insurance carriers: (i) Bryanston Insurance Company Limited (“Bryanston”) and (ii) KWELM (an acronym for the following five insolvent insurance companies: Kingscroft Insurance Company Limited, Walbrook Insurance Company Limited, El Paso Insurance Company Limited, Lime Street Insurance Company Limited and Mutual Re Insurance Company Limited) and the Bermuda Fire & Marine Insurance Company (“Bermuda”).

and indemnity costs arising from the same claims as those underlying the Hartford 9019 Motion. In addition, various governmental entities and other potentially responsible parties (“PRPs”) have asserted and may in the future assert claims against Policyholders related to the underlying claims and may submit claims in the Debtor’s Chapter 11 case.² Making public the Allocation Analysis, the Settlement Amount, and the Settlement Agreements would undermine Policyholders’ settlement negotiations and litigation with its other insurers and Policyholders’ ability to defend claims by other PRPs and governmental entities.

JURISDICTION

4. This Court has jurisdiction to consider this Motion pursuant to 28 U.S.C. § 1334. Consideration of this Motion is a core proceeding pursuant to 28 U.S.C. § 157(b). Venue of this proceeding is proper in this district pursuant to 28 U.S.C. §§ 1408 and 1409.

BACKGROUND

A. The Debtor’s Bankruptcy Case.

5. On January 5, 2001 (the “Commencement Date”), G-I commenced with this Court a voluntary case under chapter 11 of title 11, United States Code (the “Bankruptcy Code”). Subsequently, on August 3, 2001, ACI Inc. (“ACI”), a subsidiary of G-I, commenced its chapter 11 case. ACI’s application for joint administration with G-I for administrative purposes was approved by this Court on October 10, 2001. Both

² In fact, G-I’s Statement of Financial Affairs listed over 140 sites at which it received notices of its potential responsibility for environmental cleanup costs and its Schedules of Liabilities F-1 lists over 9,000 potential claims arising from environmental cleanup obligations. Some of these scheduled entities already have filed claims in the Debtor’s bankruptcy case.

G-I and ACI are authorized to operate their businesses and manage their properties as debtors in possession pursuant to Bankruptcy Code §§ 1107(a) and 1108.

6. No trustee or examiner has been appointed in these chapter 11 cases. On January 18, 2001, the United States Trustee appointed a statutory committee of asbestos claimants to serve in G-I's chapter 11 case. Thereafter, the United States Trustee changed the name of the statutory creditors' committee to the Official Committee of Asbestos Claimants (the "Committee").

7. On May 29, 2001, G-I filed an application for the appointment of a legal representative for the present and future holders of asbestos-related demands. By order dated September 6, 2001, the Court granted G-I's application, and thereafter the parties conferred regarding appropriate candidates. By order dated October 10, 2001, the Court appointed C. Judson Hamlin as the Legal Representative of Present and Future Holders of Asbestos Related Demands for G-I (the "Legal Demand Representative").

B. The Environmental Coverage Action.

8. Policyholders are the plaintiffs in an insurance coverage action captioned G-I Holdings Inc. et al. v. Hartford Accident and Indemnity Company et al., Docket No. L-980-97 which is pending in the Superior Court of New Jersey, Law Division, Somerset County (the "Environmental Coverage Action").

9. Policyholders filed the Environmental Coverage Action to secure insurance coverage for defense and indemnity costs arising from over 120 allegedly contaminated sites located across the United States. Each Policyholder bears responsibility, and owns the insurance coverage rights, for different sites at issue in the

Environmental Coverage Action.³ Policyholders' insurance policies provide separate liability limits (*i.e.*, "per occurrence limits," but not "aggregate limits") for each of these sites.

C. The Allocation of the Environmental Coverage.

10. Due to the complexity of allocating environmental claims among primary and excess insurers, Policyholders retained a consultant, Mr. Stephen Sellick ("Mr. Sellick"), to assist in analyzing and presenting their claims in the Environmental Coverage Action and related proceedings. Mr. Sellick acts as Managing Director of the environment and insurance claims practice at LECG, LLC.

11. In assisting Policyholders with quantifying their claims in the Environmental Coverage Action, Mr. Sellick, at the direction of outside counsel for Policyholders, McCarter & English, performed the allocation analysis involving Policyholders' triggered insurance policies, including the policies to which the Settling Insurers subscribed.

12. Based, in part, on the Allocation Analysis, Policyholders have entered into several settlements and filed several motions seeking approval of those settlements, including the Hartford 9019 Motion.

13. If Policyholders were required to file the Allocation Analysis, Settlement Amount, and Settlement Agreements without confidential treatment, their settlement positions and settlement discussions in the ongoing Environmental Coverage Action with their other insurers would be undermined as would their further prosecution

³ In connection with their 1991 corporate restructuring, the predecessors-in-interest to Policyholders allocated their environmental liabilities in general among the entities devolving from this corporate restructuring based on whether the primary waste-generator facility took part in the manufacture, distribution and sale of building materials or of chemical products or was a discontinued operation. This allocation continued in all subsequent corporate restructurings.

of the Environmental Coverage Action and their litigation with other PRPs and governmental entities. Policyholders continue to litigate and to attempt to settle their claims with remaining unsettled insurance carriers for defense and indemnity costs arising from the same claims and, in some cases, from policies “in excess to” the policies involved in the Hartford 9019 Motion.

RELIEF REQUESTED AND BASIS THEREFOR

14. As a result, G-I seeks an order pursuant to 11 U.S.C. § 107(b) and Fed. R. Bankr. P. 9018 authorizing the filing under seal of documents in support of the Hartford 9109 Motion. As set forth more fully below, the Allocation Analysis, the Settlement Amount, and Settlement Agreements are confidential and should be sealed to protect the estate.

Policyholders’ Allocation Analysis, Settlement Amount, and Settlement Agreements are Confidential and Must be Sealed to Protect the Estate

15. Bankruptcy Code § 107(b) mandates that the Bankruptcy Court enter an order sealing documents to protect confidential information:

On request of a party in interest, the bankruptcy court shall, and on the bankruptcy court’s own motion, the bankruptcy court may –

(1) protect an entity with respect to a trade secret or confidential research, development, or commercial information; or

(2) protect a person with respect to scandalous or defamatory matter contained in a paper filed in a case under this title.

11 U.S.C. § 107(b)(2) (emphasis added).

16. Bankruptcy Rule 9018 provides the procedure for obtaining an order sealing documents:

On motion or on its own initiative, with or without notice, the court may make any order which justice requires (i) to protect the estate or any entity in respect of a trade secret or other confidential research, development, or commercial information, (2) to protect any entity against scandalous or defamatory matter contained in any paper filed in a case under the Code, or (3) to protect governmental matters that are made confidential by statute or regulation.

Fed. R. Bankr. P. 9018.

17. The party seeking confidential treatment must submit “evidence that filing under seal outweighs the presumption of public access to court records.” In re Muma Services Inc., 279 B.R. 478, 485 (Bankr. D.Del. 2002).

18. This determination must be based upon the totality of the circumstances. Phar-Mor, Inc. v. Defendants Named Under Seal (In re Phar-Mor, Inc.), 191 B.R. 675, 678 (Bankr. N.D. Ohio 1995) (“If the § 107(b) exceptions are applicable, the inquiry must shift to whether [d]efendants have shown cause to invoke an exception, given the totality of the circumstances here found”).

19. As set forth above, the Environmental Coverage Action involves not only the policies issued by the Settling Insurers, but numerous other policies issued by other insurers. Moreover, the information contained in the Allocation Analysis, Settlement Amount, and Settlement Agreements impacts the Debtor’s rights and claims with respect to governmental entities and PRPs at over 140 environmental sites.

20. The filing of the Allocation Analysis, the Settlement Amount, and the Settlement Agreements without an order requiring them to be kept under seal will undermine Policyholders’ position and settlement discussions with respect to the

ongoing Environmental Coverage Action with the other insurers and its ability to address the over 140 environmental sites and 9,000 potential claims for contributions or indemnity arising from those sites. See In re Orion Pictures Corp., 21 F.3d 24, 26 (2nd Cir. 1994) (“[d]isclosing the sealed information, including the overall structure, terms and conditions of the McDonald’s Agreement renders very likely a direct and adverse impairment to Orion’s ability to negotiate favorable promotion agreements with future customers, thereby giving Orion’s competitors an unfair advantage.”)

21. The Debtor is cognizant of the public’s right to access documents filed with the Bankruptcy Court. As a result, the Debtor is prepared to provide the relevant portions of the Allocation Analysis, the Settlement Amount, and the Settlement Agreements to the Committee, the Legal Representative and other interested parties subject to an appropriate confidentiality agreement to the extent necessary to adjudicate the Motion.⁴ But the Debtor does not believe it is necessary or appropriate to provide this information to the defendants in the Environmental Coverage Action, the governmental entities asserting environmental claims, or the co-liable potentially-responsible parties at the environmental sites — all of whom could use the confidential information against the Debtor in the Environmental Coverage Action and other proceedings involving the Debtor. The Debtor submits that these limitations are reasonable and present no affront to the general principle favoring public access to court documents.

⁴ The Debtor is prepared to provide relevant portions of the Allocation Analysis, the Settlement Amount, and the Settlement Agreements and other related documents and information to the Committee and the Legal Representative based on their execution of confidentiality agreements.

22. For the foregoing reasons, G-I respectfully requests that, pursuant to 11 U.S.C. § 107(b) and Fed. R. Bankr. P. 9018, the Court enter an Order granting the relief requested herein.

WAIVER OF MEMORANDUM OF LAW

23. Pursuant to D.N.J. LBR 9013-2, G-I respectfully requests that the Court waive the requirement that it file a memorandum of law in support of this Motion. No memorandum of law is necessary because no novel issues of law are presented herein.

NOTICE

24. G-I has served notice of this Motion on (i) the Office of the United States Trustee for the District of New Jersey, (ii) the Official Committee of Asbestos Claimants, (iii) the Legal Demand Representative, (iv) the Settling Insurers' counsel, (v) BMCA, (vi) ISP, and (vii) all other parties that have filed a notice of appearance in this case. G-I submits that, given the nature of the relief requested, no other or further notice need be given.

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WHEREFORE, G-I respectfully requests that, pursuant to 11 U.S.C. § 107(b) and Fed. R. Bankr. P. 9018, the Court enter an Order sealing the Allocation Analysis, the Settlement Amount, and the Settlement Agreements and grant G-I such other and further relief as may be just.

Dated: October 11, 2006
Morristown, New Jersey

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